



# **Campaign and Political Finance Disclosure Manual**

September 2012

Based On and Adopted From  
Colorado Campaign and Political Finance Manual  
Published by  
Colorado Secretary of State  
Revised April 2012

### Using the Campaign and Political Finance (CPF) Manual

The City of Centennial, while a home rule city, has specifically adopted, by Charter and by Ordinance (2011-O-08), the Fair Campaign Practices Act as set forth in the Colorado Constitution and state statute. This Manual provides guidelines and helpful tips for proper compliance with the following laws governing campaign finance and required disclosures **as relevant to a City of Centennial election only**: (1) Article XXVIII (also known as Amendment 27) of the Colorado Constitution (may be referred to in this Manual simply as the “Constitution”), (2) Title 1 Article 45 of the Colorado Revised Statutes (may be referred to in this Manual simply as “C.R.S.”), (3) the Rules Concerning Campaign and Political Finance law as adopted by the Secretary of State’s Office (may be referred to in this Manual simply as “Rules”), (4) Section 5.5 of the City of Centennial Home Rule Charter, and (5) Article 6 of Chapter 2 of the Centennial Municipal Code. These laws and rules are provided as part of the Centennial candidate packet. As the City has, by ordinance, specifically adopted the state statutes and constitutional provisions on the issues of campaign finance and disclosure (with exceptions only to add an additional filing date and to provide for local enforcement and sanctions as a result of the Secretary of State’s Office advisory opinion placing such obligation on home rule jurisdictions), this Manual follows the interpretations of the Constitution, the C.R.S., and the Rules as promulgated by the Colorado Secretary of State.

***NOTICE:*** If you are considering running for office, you, your agent, fundraisers, and campaign manager should become familiar with the requirements of the Constitution, the C.R.S., the Rules and the City’s ordinances. You must read Article XXVIII of the Colorado Constitution, C.R.S. Title 1, Article 45 and the accompanying Rules Concerning Campaign and Political Finance, and Article 6 of Chapter 2 of the Centennial Municipal Code to understand Colorado Campaign and Political Finance procedures and requirements. The information included in this Manual is based on the Colorado Campaign and Political Finance Manual published by the Colorado Secretary of State as revised in April, 2012, with updated rules as of July 2012. Because applicable statutes and rules are subject to change and interpretation, you are advised that this Manual may not accurately reflect the current state of the law governing campaign and political finance disclosure in Colorado. *This Manual merely reflects the City’s interpretation of those laws in effect at the time that it was issued. THEREFORE, THIS MANUAL SHALL NOT BE BINDING UPON THE CITY UNDER ANY CIRCUMSTANCES.*

Furthermore, campaign and political finance law may undergo changes during the election cycle. The City Clerk may, but is not obligated to, issue updates or addenda to this Manual, and all parties wishing to receive any such documents should ensure that their contact information on file with the Clerk is current and accurate.

***This Manual was created for reference purposes only and should not be used as a substitute for legal advice and actual knowledge of the campaign finance laws and regulations.***

***Please be advised that failure to comply with the requirements of Colorado law could subject you or your group to enforcement proceedings.***

#### Contacting the City Clerk's Office With Campaign Finance Questions

The City Clerk's Office cannot provide legal advice on interpretations of the Campaign Finance laws as they apply to City of Centennial elections but can answer certain questions concerning compliance and logistics. Please contact the City Clerk, Barbara Setterlind, at:

Phone: (303) 754-3324  
Email: [bsetterlind@centennialco.gov](mailto:bsetterlind@centennialco.gov)  
Address: 13133 East Arapahoe Road  
Centennial, CO 80112

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## **PART ONE: CANDIDATES AND CANDIDATE COMMITTEES**

### **BECOMING A CANDIDATE**

You become a candidate when you publicly announce your intent to run for office *and thereafter* receive a contribution or make expenditures in support of your candidacy for City elective office. The City Clerk's Office recommends that, regardless of when you accept a contribution, if any, or make expenditure, you file a candidate affidavit with the City Clerk's office within 10 days of the day that you publicly announce your intent to run for office.

Public announcement includes, but is not limited to, making a statement signifying an interest in a public office by means of a speech, advertisement, or other communication reported to or appearing in public media or any place that is accessible to the public. This also includes a stated intention to explore the possibility of seeking an office and/or the registration of a Candidate Committee.

#### Documents and Where to File

Once you become a candidate for City elective office, you must file a *candidate affidavit* with the City Clerk's office within 10 days of your public announcement that you will seek election or retention. The affidavit must be notarized, and mailed or hand-delivered in hard copy to the City Clerk's office. The affidavit is an attestation that the candidate has familiarized themselves with campaign finance laws and regulations, so be sure to read the laws before submitting the affidavit.

### **CANDIDATES WITHOUT COMMITTEES (STANDALONE CANDIDATES)**

Standalone candidates are those candidates who do not have a Candidate

Committee. You do not need a Candidate Committee if you *will not* seek or accept contributions during your candidacy or if you will only be spending your own money. You must have a committee if you will accept money from any other person/entity.

Standalone candidates must report all expenditures to the City Clerk.

Standalone candidates must itemize all expenditures of \$20 or more. Itemized expenditures must list the name and address of the contributor and the purpose of the expense.

The law does not require standalone candidate who do not make expenditures to file disclosure reports, but candidates may file a zero report if they choose.

Standalone candidates are no longer considered candidates upon losing the election to office. These individuals do not need to take affirmative action to end their candidacy and need not file disclosure reports. Candidates wishing to exit the race prior to the election must submit a written withdrawal and must file disclosure reports for any reporting periods in which they made expenditures until submitting such a withdrawal or until the election occurs.

### **CANDIDATE COMMITTEES**

A Candidate Committee accepts contributions or makes expenditures under the authority of the candidate. A Candidate committee includes the candidate. A candidate may have *only one* Candidate Committee. It is not necessary for the Committee to have other members besides the candidate.

#### Registering your Committee

Under the Colorado Constitution, a person becomes a candidate when they:

- publicly announce an intent to run for office and thereafter
- receives a contribution or makes an expenditure in support of their candidacy.

The City Clerk recommends registering a Candidate Committee with the City Clerk *before* accepting contributions or making expenditures.

You will need a committee name (usually including the name of the candidate, such as “Jane Doe for District 1 Councilmember”), physical and mailing addresses, and a description of your committee’s purpose, the details of the office sought, and financial information including the name of the bank where the committee has or will have an account. You also need to designate a registered agent who acts as the committee’s representative. The candidate may be the registered agent or may designate another person to serve as registered agent.

### Registered Agents

All committees registered with the City Clerk must have a registered agent. The registered agent must be a natural person and is responsible for maintaining all committee records and filing all reports on time.

The registered agent is like a treasurer — he or she keeps track of all contributions and expenditures and can file the committee’s reports. The registered agent has important duties, and access to all of the committee’s financial information. The City Clerk communicates primarily with the registered agent via telephone or email. The candidate may serve as the registered agent for his or her Candidate Committee, or may appoint someone else to serve.

In addition to the candidate or the registered agent, the committee may also assign the

timely filing of Contribution and Expenditure reports to a designated filing agent.

The registered agent can be replaced after a formal resignation, after which the committee must file an amended registration. To resign, a registered agent must file a resignation letter with the City Clerk via certified mail. A new registered agent must assume the role before the City’s records will reflect a resignation. Please see Rule 9.3 for more information.

### Amending your Committee Registration

Committees must report any changes to their committee registration information—including address, phone, email, registered agent, or purpose—must be reported *within five days of the change*. Committees can file amendments by completing and submitting a paper Committee Registration Amendment form to the City Clerk.

### Terminating your Committee

Candidates remain candidates for office as long as they have an open Candidate Committee and must file all assigned disclosure reports while the committee is open. Candidates may terminate their committee by filing a termination report that reflects a zero balance with the City Clerk.

Subject to maximums, the City Clerk will impose penalties of \$25 per day, including weekends and holidays, for reports filed after the due date, even if your committee has no activity during the reporting period. See Part IV on Penalties.

A committee which has a loan or outstanding debt cannot be terminated until the loan or debt has been paid and the committee has reached a zero balance.

Inactive Candidate Committees *must* terminate after nine years. Inactive



candidates do not seek access to the ballot  
in an upcoming election.

### Relevant Laws and Rules for Candidate Committees

Definitions	Art. XXVIII, Sec. 2
Registration and Amendments	1-45-108(3), C.R.S.; SOS Rules 2.2, 8.1, and 12.1
Disclosure Requirements	1-45-108, 1-45-109, 1-45-110, C.R.S.; SOS Rule 10
Deposits and Records	Art. XXVIII Sec. 3(9); SOS Rule 10
Filing Dates	Home Rule Charter Section 5.5. See also official election calendar.
Unexpended Campaign Funds	Art. XXVIII, Sec. 2(15); 1-45-106, C.R.S.; Rule 12.4
Terminating	SOS Rules 2.2 and 12.3
Inactive Candidate Committees	1-45-106 (1)(a)(III), C.R.S.

### **CONTRIBUTIONS AND EXPENDITURES**

A candidate committee must report all contributions to and all expenditures made to the City Clerk on forms supplied by and filed with the City Clerk's office. Standalone candidates must report all expenditures.

Filing dates for City elections differ from the filing dates for state or county elections as the City's Home Rule Charter (Section 5.5) contains an additional filing deadline 42 days before an election. This date and all other filing dates and reporting periods for every election will be made available in a calendar to be supplied as part of the candidate packet by the City Clerk's Office and shall be posted on the City's web site at [www.centennialcolorado.com/cityservices/cityclerk/regular election](http://www.centennialcolorado.com/cityservices/cityclerk/regular%20election).

A filing deadline is the date upon which a filing must be *actually received* by the City Clerk's Office. All reports must be received by 5:00 p.m. of the filing deadline in order to be considered timely. The date of a postmark is not relevant in determining if a filing date has been met.

Keep your telephone number, address and e-mail address current with the City Clerk's Office because reminders about filings, changes to campaign finance laws and regulations, and other important information may be sent via telephone, U.S. mail, or e-mail.

### Contributions for Candidates and Candidate Committees

Candidates in the City are not subject to contribution limits. However, candidates must report all contributions in the amount and manner specified in this section and the amount of a contribution affects the detail level required for reporting contributions.

Remember that you should register a committee prior to accepting contributions. Candidate committees must report all contributions they receive to the City Clerk on forms supplied by and filed with the City Clerk's office.

### Contribution Amount Thresholds Affecting Reporting Detail Requirements

Depending on the contribution amount, Colorado law requires committees to report certain additional information as follows:

Committees must disclose contributions of less than \$20 on their report although itemization is not required.

Committees must report and itemize contributions of \$20 or more, including non-monetary (in-kind) contributions. Itemization means listing each contribution individually with the name and address of the contributor.

Committees receiving contributions of \$100 or more from natural persons, including non-monetary contributions, must also include the occupation and employer of the contributor on the report. This requirement applies to any one-time contribution and not to aggregate contributions of \$100.00 or more. (Rule 10.1.4(a))

Contributors may make contributions using cash, check, money order, credit card, EFT, etc.; but cash or coin contributions cannot exceed \$100.

Non-monetary donations of goods, equipment, supplies or services constitute contributions, and require disclosure. Non-monetary contributions count against these contribution amount thresholds affecting reporting detail requirements.

Contributions include anything of value given directly or indirectly to a candidate "for the purpose of promoting the candidate's nomination, retention, recall, or election."

Contributions from natural persons made by check are considered to be from the person who signed the check. For contributions or donations made by check, the date the committee deposits the check into its account is the date of receipt. Please see page 26 of this Manual for information on contributions from joint account holders.

Contributions of \$1,000 or more received within 30 days before a City election must be reported to the Secretary of State within 24 hours of receipt as a Major Contribution, separate from regular reports. In addition to the required reporting to the Secretary of State, a copy of the report must also be filed with the City Clerk's office within 24 hours of receipt of such contribution.

Volunteer services by an individual do not constitute contributions. This includes volunteers who donate time to the campaign at no charge. Keep in mind that donated

services that are not time-based may be subject to disclosure and affect contribution amount thresholds affecting reporting requirements. See Rule 1.3.3. As an example, donated printing services or catering services may be in-kind donations of services that are considered contributions subject to reporting.

No person shall act as a conduit for a contribution to a Candidate Committee, and the law prohibits anonymous contributions of \$20 or more.

- Prohibited Contributions

Candidates and Candidate Committees may not accept contributions from:

- Corporations, as such term is defined in C.R.S. Section 1-45-103(7)
- Labor organizations
- Foreign citizens, foreign corporations, or foreign governments
- Another candidate committee (local, state, or federal)
- Anonymous donors if the contribution is \$20 or more
- Limited Liability Companies (LLCs), if any of the LLC members are a:
  - Corporation or labor organization; or
  - Natural person who is not a U.S. Citizen; or
  - Foreign government; and
  - Contributions to candidates are prohibited from LLCs whom the I.R.S. treats as corporations and from LLCs with publicly traded shares.

Colorado law prohibits a person from making a contribution with the expectation that the recipient will

reimburse all or a part of the contribution.

**Colorado law permits LLC contributions subject to the following requirements:**

- The LLC must provide the candidate or committee with a written statement affirming the permissibility of the contribution via a form provided by the City Clerk.
- Affirmation must include:
  - Name & address of all LLC members
  - Information on how to attribute the contribution among the LLC members. The attributed amount must reflect the capital the member has invested in the company at the time the contribution is made (percentage of ownership).
  - For contributions of \$100 or more attributed to an LLC member, occupation and employer information for that member must also be provided.
- The committee must:
  - Retain affirmation statement for 1 year after the end of the election cycle.
  - Itemize LLC contributions regardless of amount.
  - List both the individual LLC member's name as the contributor as well as the name of the LLC.
- Loans

Candidates and candidate committees may receive loans from financial institutions, "if the loan

bears the usual and customary interest rate."

**Candidate may not receive loans from other individuals or entities.**

Loans from a financial institution do not affect contribution amount thresholds that affect reporting detail requirements.

Loans from a financial institution cannot be forgiven.

Candidates may forgive loans made to their own committee. The amount of unpaid debt forgiven by the candidate remains a contribution and is not considered a returned contribution.

Legal Provisions Related to Contributions

Definitions	Art. XXVIII, Sec. 2 (5)
Registration Required	1-45-108(3), C.R.S.
Conduits Prohibited	Art. XXVIII, Sec. 3(7)
Reimbursement Prohibited	Art. XXVIII Sec. 3(11)
Major Contributors	1-45-108(2.5), C.R.S.
LLCs	1-45-103.7, C.R.S.
Loans	Art. XXVIII, Sec. 3(8); SOS Rule 10.10

Expenditures by Candidates and Candidate Committees

Simply stated, expenditures refer to the money an individual or committee spends. Money spent on anything for the purpose of expressly advocating the election or defeat of a candidate is considered an expenditure.

An expenditure occurs when it is made,

when funds are obligated, or when a contract is established, whichever occurs soonest.

Expenditures that are controlled by or coordinated with a candidate or a candidate's agent are deemed to be both contributions by the maker of the expenditures, and expenditures by the Candidate Committee.

Mileage should be reported as an expenditure using the Internal Revenue Service (I.R.S.) rate.

No committee or candidate may spend more than \$100 in cash or coin on any single expenditure.

Committees must itemize all expenditures of \$20 or. Itemized expenditures must list the name and address of the payee and the purpose of the expense.

Candidate Committees may not make contributions to another candidate.

Committees that do not reimburse third-party expenditures (those made on behalf of the committee by someone other than the candidate, agent, or other person affiliated with the committee) should report them as non-monetary (in-kind) contributions.

### Reimbursements

Committees should report reimbursements by the campaign to candidates, staff, and volunteers as expenditures.

Candidate Committees may reimburse the candidate for expenditures the candidate made on behalf of the committee at any time. The disclosure report should list this as a reimbursement, and should detail what the original expenditure was for. (For example, if the payee is the candidate's bank or the candidate because it is a reimbursement for credit card or out-of-pocket expenses, the purpose should

include what the candidate purchased and from whom. Simply stating that the purpose is "credit card payment" or "reimbursement" is insufficient.

Each reimbursement of \$20 or more shall be separately disclosed.

### Bank Accounts

Candidate Committees must deposit all contributions they receive in a financial institution in a separate account with a title that includes the name of the committee.

The financial institution with which you have your committee account may be any bank that you choose. Please consult your bank and I.R.S. regulations concerning account requirements, which may vary depending on the institution.

### Legal Provisions Related to Expenditures

Definitions	Art. XXVIII, Sec. 2 (8 and 9)
Cash/Coin Expenditures	Art. XXVIII, Sec. 3 (10)
Itemized Expenditures	1-45-108(1)(a)(I), C.R.S.; SOS Rule 10.2
Independent Expenditures	Art. XXVIII, Sec. 5; 1-45-108(2.5), C.R.S.

### Filing Calendars: Dates and Deadlines

Filing dates for City elections differ from the filing dates for state or county elections as the City's Home Rule Charter (Section 5.5) contains an additional filing deadline 42 days before an election. This date and all other filing dates and reporting periods for every election will be made available in a calendar to be supplied as part of the candidate packet by the City Clerk's Office and shall be posted on the City's web site at [www.centennialcolorado.com/cityservices/cityclerk/regular election](http://www.centennialcolorado.com/cityservices/cityclerk/regular%20election).

A filing deadline is the date upon which a filing must be *actually received* by the City Clerk's Office. All reports must be received by 5:00 p.m. of the filing deadline in order to be considered timely. The date of a postmark is not relevant in determining if a filing date has been met.

### Amended Reports

Whenever a committee becomes aware of an error in past reporting, the committee must amend the report as soon as possible by filing an "Amended Report of Contributions and Expenditures" with the City Clerk.

### After the Election

Candidate Committees remain open until affirmatively closed by the candidate, registered agent, or designated filing agent. Failure to win the election does not automatically close your Candidate Committee. The candidate or agent must file a termination report reflecting a zero balance to close the committee. A committee must pay all outstanding loans and debts before terminating and the committee must file all required reports on time as long as the committee remains open.

Committees must keep financial records for 180 days following any election in which the committee received contributions, and keep LLC affirmations for 1 year. Committees subject to a complaint must maintain records and make them available until after the matter is resolved.

Inactive Candidate Committees *must* terminate, and all funds must be disposed of appropriately, after nine years.

### Unexpended Campaign Contributions

The law places some restrictions on what a candidate committee may do with unexpended campaign funds.

Committees may use unexpended funds in the following ways:

- Contributed to a political party, up to the limit allowed for the party.
- Contributed to a new committee established by the same candidate for a new office. Limits apply as to how much may be contributed to the new committee.
- Donated to an IRS-recognized charitable organization.
- Returned to contributors.
- Retained for use in a later campaign by the same candidate.
- If elected to office, you may also use your unexpended campaign funds for voter registration, political issue education (the law prohibits contributions to issue committees), postsecondary educational scholarships, or to defray reasonable and necessary expenses related to your official duties as an elected official (including communicating with your constituents).

If you wish to run for a different office, you may use some or all of your old committee funds, subject to the following restrictions:

- You must open a new Candidate Committee if you run for a different office and terminate the old Candidate Committee within 10 days of opening the new committee for the new office.
- The committee funds rolled over to the new committee count as a contribution from a political party.

- Under certain circumstances, such as those in which the previous race was not subject to contribution limits but the new race is, unexpended funds cannot be carried over.
- Transfers to the new committee may not exceed 20% of the voluntary campaign spending limit for the new office if the new committee is for a state office, excluding RTD (this limit applies also to committees remaining open and carrying over for the same office in a new election cycle).
- Standalone Candidates

Standalone candidates must file disclosure reports for any reporting period up to and including the election during which expenditures were made. Standalone candidates who fail to win their election cease to be candidates once the election is over.

#### Relevant Laws and Rules

Unexpended Campaign Funds	1-45-106, C.R.S.
Subsequent Elections	Art. XXVIII, Sec. 3 (3)(e); SOS Rule 2.2.4

## **PART TWO: NONCANDIDATE COMMITTEES**

Political Committees, Small Donor  
Committees, Issue  
Committees, Recall Committees, and  
Independent Expenditure Committees

### **REGISTERING YOUR COMMITTEE**

Colorado law associates different types of political activity with different types of committees. Prior to raising or spending money, read Article XXVIII of the Colorado Constitution, Title 1 Article 45 of the C.R.S., and the Secretary of State Rules Concerning Campaign and Political Finance to determine committee registration requirements.

The type of committee that you register depends on the activities of your committee. Under most circumstances, it is not possible to “choose” the type of committee that you want to register. If your activities meet the definition a committee listed below, you must register with the City Clerk and follow the laws governing activities for that type of committee.

Filing dates for City elections differ from the filing dates for state or county elections as the City’s Home Rule Charter (Section 5.5) contains an additional filing deadline 42 days before an election. The City imposes monetary penalties for every day a required report is late, including weekends and holidays. See page 28 of this Manual concerning Penalties.

### **TYPES OF COMMITTEES**

#### **Political Committees**

Definition: Any person, other than a natural person, or any group of two or more persons, including natural persons that support or oppose the nomination or

election of one or more candidates as its major purpose. Refer to Rule 1.18.

#### **Features of Political Committees:**

- Political Committees support or oppose candidates for City elective office in Colorado.
- Annual expenditures made to support or oppose the nomination or election of one or more candidates for City elective office constitute a majority of the organization’s total spending during the same period.
- Committees advocating for or against candidates for City elective office must register with the City Clerk.

Political Committees may accept contributions from corporations and unions but cannot accept contributions from foreign citizens, foreign corporations, or foreign governments.

Colorado law treats all Political Committees organized, established, maintained and financed by the same labor organization, corporation, or other group of persons as a single political committee. Colorado law treats all political committees established, financed, maintained, or controlled by the same person or group of persons as a single political committee.

There is no requirement that a Political Committee segregate contributions received from corporations and labor organizations from those received from natural persons.

- **Reporting requirements**

A Political Committee must report all contributions received and expenditures to the City Clerk.

Reports must contain the name and address of the contributor for all contributions of \$20 or more, and the contributor’s employer and occupation for those totaling \$100 or



more if the contributor is a natural person. Contributions under \$20 may be combined and reported as one lump sum in a reporting period as “non-itemized” contributions.

All contributions from Limited Liability Companies (LLCs) must be itemized. The LLC must provide the candidate or committee with a written affirmation statement that the contribution is permitted by law via a form provided by the City Clerk.

Only the registered agent or designated filing agent may sign and file committee reports.

Filing dates for City Political Committees differ from state committees as the City’s Home Rule Charter (Section 5.5) contains an additional filing deadline 42 days before an election. Please be certain you have the correct filing dates. Filing dates and reporting periods for every election will be made available in a calendar to be supplied as part of the candidate packet by the City Clerk’s Office and shall be posted on the City’s web site at [www.centennialcolorado.com/cityservices/cityclerk/regular election](http://www.centennialcolorado.com/cityservices/cityclerk/regular%20election).

A filing deadline is the date upon which a filing must be *actually received* by the City Clerk’s Office. All reports must be received by 5:00 p.m. of the filing deadline in order to be considered timely. The date of a postmark is not relevant in determining if a filing date has been met.

- Major Contribution Report

Committees must file a Major Contribution report with the City Clerk within 24 hours of receiving

any contribution of \$1,000 or more within 30 days preceding a City election. Colorado law requires the filing of a Major Contribution report **in addition to** reporting such contributions on the regularly scheduled disclosure reports. Colorado law also requires committees to file a Major Contribution Report with the Secretary of State for such contributions within 24 hours of receipt of such contribution.

- Terminating a Political Committee

In order to close a Political Committee, you must submit a termination report to the City Clerk. The committee must have a zero balance, which means there are no funds on hand, and no outstanding debts or other obligations. Committees may file a termination report at any time. As long as the committee remains open, it must file disclosure reports in every reporting period, even those during which the committee has no activity.

Statute does not limit the use of unexpended campaign funds for Political Committees. Committees may refer to Rule 12.4.2 regarding unexpended campaign funds for issue committees for guidance related to unexpended funds.

- Legal Provisions Applicable to Political Committees

Definition	Art. XXVIII, Sec. 2(12); Rule 1.18
Registration and Amendments	1-45-108(3), C.R.S.; SOS Rules 8.1, 12.1
Disclosure Requirements	Art. XXVIII, Sec. 7; 1-45-

	103.7, 1-45-108, 1-45-109, C.R.S.; SOS Rule 10
Filing Dates	Home Rule Charter Section 5.5. See also official election calendar.
Contribution Amount Thresholds Affecting Reporting Requirements	Art. XXVIII, Sec. 3; 1-45-103.7, C.R.S.; Rule 10.14
Major Contributions	1-45-108(2.5), C.R.S.

### Small Donor Committees:

**Definition:** Any political committee that has accepted (or will accept) contributions only from natural persons who each contribute no more than fifty dollars in the aggregate per calendar year.

Small Donor Committees (SDCs) are a form of a political committee that may only accept contributions of \$50 or less from natural persons who are U.S. citizens.

Corporations and labor organizations may establish SDCs, and their members may contribute. However, corporations and labor organizations themselves cannot contribute to SDCs, and money contributed to a SDC cannot be given back to a corporation or labor organization for general use.

SDCs established by substantially the same group of persons will be treated as a single committee.

Colorado law permits SDCs to make larger contributions to candidates and parties than political committees.

Dues transferred to a SDC from a membership organization (including aggregated dues transfers) are considered pro-rata contributions to the SDC from individual members. The actual transfer itself is not considered a contribution from the membership organization to the SDC. If the pro-rata amount from each individual is \$20 or more in a reporting period, each individual member must be listed as a contributor.

- Reporting requirements

A SDC must report all contributions received and expenditures made to the City Clerk.

Reports must include the name and address of the contributor must be reported for all contributions of \$20 or more.

The law prohibits contributions from corporations, unions, and LLCs because they are not “natural persons.”

Only the registered agent or designated filing agent may sign and file committee reports.

Filing dates for City SDCs differ from state small donor committees as the City’s Home Rule Charter (Section 5.5) contains an additional filing deadline 42 days before an election. Please be certain you have the correct filing dates. Filing dates and reporting periods for every election will be made available in a calendar to be supplied as part of the candidate packet by the City Clerk’s Office and shall be posted on the City’s web site at [www.centennialcolorado.com/cityservices/cityclerk/regular election](http://www.centennialcolorado.com/cityservices/cityclerk/regular%20election).

A filing deadline is the date upon which a filing must be *actually received* by the City Clerk’s Office. All reports must be received

by 5:00 p.m. of the filing deadline in order to be considered timely. The date of a postmark is not relevant in determining if a filing date has been met.

- Terminating a small donor committee

You must submit a termination report to the City Clerk to close a SDC. The SDC must have a zero balance, which means there are no funds on hand, and no outstanding debts or other obligations. As long as the SDC remains open, it must file disclosure reports.

The termination report may be filed at any time.

Statute does not limit the use of unexpended funds for SDCs. Committees may refer to Rule 12.4.2 regarding unexpended campaign funds for issue committees for guidance related to unexpended funds. .

### Political Parties

As City elections are non-partisan, candidates are not nominated by party and the campaign finance laws that apply to political parties for state and county elections are not relevant in Centennial elections. Political parties should contact the Secretary of State's office for guidance on campaign finance compliance.

### Issue Committees

Colorado law defines an issue committee as any person, other than a natural person, or any group of two or more persons, including natural persons, that has:

- A major purpose of supporting or opposing any municipal ballot issue or ballot question, AND

- Accepted or made contributions or expenditures in excess of \$200 to support or oppose any ballot issue or ballot question OR has printed two hundred or more petition sections. **(Issue committees at the state, county, or special district level, or those active in multiple counties or special districts, are subject to statewide regulation and register with and report to the Secretary of State. This Manual does not encompass guidance for such committees.)**

An organization or group of people who support or oppose an issue in their community should familiarize themselves with the laws concerning issue committees before the group engages in political activity, to ensure compliance with any campaign finance laws that may apply.

You *must* register an Issue Committee if you:

- Are a group of two or more individuals (natural persons) or a business (or both);
- That supports or opposes a ballot issue or ballot question (see below for definition); AND one of the following two criteria has been met:
- You have accepted or made contributions or expenditures of \$200 or more to support or oppose that ballot issue or ballot question; OR
- You have printed more than 200 petition sections or more than 200 petition sections have been accepted.

**The constitutionality of the \$200 reporting threshold is currently in dispute and the subject of a lawsuit. Until this issue is resolved, the City Clerk will enforce the \$200 threshold established by state statute. Contributions received and**

**expenditures made prior to reaching the \$200 threshold are not required to be reported. Contributions received and expenditures made after reaching the \$200 threshold shall be reported in accordance with Section 1-45-108(2)(a), C.R.S. and with the § 5.5 of the Centennial Home Rule Charter as set forth below.**

- Registration and reporting requirements

Registration with the City Clerk is required within 10 calendar days of (a) accepting contributions or making expenditures in excess of \$200 to support or oppose any ballot issue or ballot question, or (b) printing more than 200 petition sections or having more than 200 petition sections accepted.

Filing dates for City elections differ from the filing dates for state or county elections as the City's Home Rule Charter (Section 5.5) contains an additional filing deadline 42 days before an election. This date and all other filing dates and reporting periods for every election will be made available in a calendar to be supplied by the City Clerk's Office and shall be posted on the City's web site at [www.centennialcolorado.com/cityservices/cityclerk/regular election](http://www.centennialcolorado.com/cityservices/cityclerk/regular%20election).

A filing deadline is the date upon which a filing must be *actually received* by the City Clerk's Office. All reports must be received by 5:00 p.m. of the filing deadline in order to be considered timely. The date of a postmark is not relevant in determining if a filing date has been met.

Only the registered agent or designated filing agent may sign and file the committee's reports.

Any amendments or changes to your registration must be filed with the City Clerk within five days of the change.

Contribution limits do not apply to Issue Committees, except that Colorado law prohibits contributions made with the expectation that the committee will reimburse all or part of the contribution.

Reports must contain the name and address of the contributor must be reported for all contributions of \$20 or more, and the contributor's occupation and employer must be listed for all contributions of \$100 or more if the contributor is a natural person.

An Issue Committee may terminate by filing a termination report, but only if the report indicates a zero balance and no outstanding obligations.

Issue Committees may return unexpended campaign funds to the contributors or donate them to a charitable organization recognized by the Internal Revenue Service.

A disclaimer statement is required on communications produced by expenditures of more than \$1,000 made by an Issue Committee.

- Major Contribution Report

Committees must file a Major Contribution report with the Secretary of State within 24 hours of receiving any contribution of \$1,000 or more within 30 days of a City election *in addition to* reporting such

contributions on regularly scheduled disclosure reports. In addition to the required reporting to the Secretary of State, a copy of the report also be filed with the City Clerk's office within 24 hours of such contribution.

- **Ballot Issues and Ballot Questions**

A ballot issue is "a ...local government matter arising under section 20 of article X of the state constitution," as defined in C.R.S. § 1-1-104(2.3). Essentially, ballot issues are Taxpayer Bill of Rights (TABOR) matters.

A ballot question is "a ...local government matter involving a citizen petition or referred measure, other than a ballot issue." C.R.S. § 1-1-104(2.7). Ballot questions are non-TABOR ballot measures.

- **Legal Provisions Applicable to Issue Committees:**

Definitions	Art. XXVIII, Sec. 2(10); 1-45-103, C.R.S.
Major Purpose	Rule 1.12
Registration and amendments	1-45-108(3), (3.3), and (6), C.R.S.; SOS Rules 4.1, 8.1, and 12.1
Disclosure Requirements	Art. XXVIII, Sec. 7; 1-45-108, 108.3, 1-45-109, C.R.S.; SOS Rules 4.4 and 15
Disclaimers	1-45-108.3, C.R.S.
Filing Dates	Home Rule Charter Section 5.5. See also official election calendar.

Major Contributions	1-45-108(2.5), C.R.S.
Unexpended Funds	1-45-106(3), C.R.S.
Ballot Issues and Questions	1-1-104(2.3), 1-1-104(2.7), C.R.S.

### **Recall Committees**

A Recall Committee is an issue committee formed to support or oppose the recall of a City elected officer (Mayor or Councilmember). *Note: Committees authorized by a candidate are still Candidate Committees.*

**Because Recall Committees are a type of issue committee, please be sure to read the portions of this Manual applicable to Issue Committees.**

An incumbent subject to recall who wishes to oppose the recall election must form an Issue Committee. *An incumbent may not use their Candidate Committee to oppose the recall.*

Persons supporting or opposing candidates to fill the vacancy created by a successful recall must form a Political Committee.

Any person seeking to fill the vacancy created by a successful recall must form a Candidate Committee if they will accept contributions in support of their election.

A Recall Committee must be registered within ten calendar days of accepting or making contributions or expenditures in excess of \$200 to support or oppose the recall. Recall Committees are subject to the same campaign finance requirements as Issue Committees including itemization, termination, etc.

**The \$200 threshold in contributions or expenditures is currently the subject of a dispute in a lawsuit. Until settled, the City will enforce this threshold.**

Filing calendars for committees participating in a recall election are determined by the date of the election or by the date that the recall petition is deemed insufficient. The City Clerk will prepare and issue the calendar.

- Legal Provisions Applicable to Recall Committees:

Registration and Reporting	1-45-108(6), C.R.S.; SOS Rule 15
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### Independent Expenditure Committees

Definition of an independent Expenditure Committee: One or more persons that makes independent expenditures in an aggregate amount in excess of \$1,000, or that collects in excess of \$1,000 from one or more persons for the purpose of making an independent expenditure.

The requirements applicable to Independent Expenditure Committees apply to *all* persons, groups, businesses, and other entities that meet the definition of Independent Expenditure Committee.

Please see the section of this Manual covering independent expenditures and electioneering communications (pages 23-25) for more information.

- Legal Provisions Applicable to Independent Expenditure Committees:

Definitions	1-45-103(11.5), C.R.S.
Registration and Disclosure Requirements	1-45-107.5, C.R.S.

### Registered Agents

All committees registered with the City Clerk must have a registered agent. The registered agent must be a natural person and is responsible for maintaining all committee records and filing all reports on time. The City Clerk will address all correspondence regarding the committee to the agent.

The committee may replace the registered agent upon formal resignation of the agent, but the committee must file an amended registration. To resign, a registered agent must file a resignation letter with the City Clerk via certified mail. There must be a registered agent associated with each committee at all times.

- Legal Provisions Applicable to Registered Agents:

Definition	1-45-108(3)(b)
Registration	1-45-108(3), C.R.S.; SOS Rules 2.2.1 and 9
Disclosure requirements	1-45-108, C.R.S.; SOS Rule 10
Filing Dates	Home Rule Charter Section 5.5. See also official election calendar.
Deposits and Record-keeping	SOS Rule 10
Contribution Amount Thresholds Affecting Reporting Requirements	Art. XXVIII, Sec. 3
Sanctions	Art. XXVIII, Sec. 10; Sections 2-6-330, 2-6-340 and 2-6-350 of the Municipal Code

## How to Register

All registration and reporting required by committees subject to campaign finance law is done on forms supplied by and filed with the City Clerk. To register your committee, you will need the following:

- Know which type of committee you will register;
- A committee name (and acronyms you will use);
- A registered agent and such agent's address, phone number and e-mail address;
- The physical and mailing addresses for the committee's principal place of business;
- A description of your committee's purpose (this must include detail, including candidates, ballot measure numbers, or policy positions you will support or oppose); and
- Financial information, including the name of the bank where the committee has (or will have) an account.

Any registration amendments must be promptly reported to the City Clerk's Office within 5 days of the change. Reportable changes include (but are not limited to): name and address changes, a change in the committee's purpose, and changes in the financial institution.

Registration requirements differ for Independent Expenditure Committees. Please see pages 23 and 24 of this Manual.

## **CONTRIBUTIONS AND EXPENDITURES**

All committees registered with the City Clerk must report contributions and expenditures (and donations, for Independent Expenditure Committees).

Filing dates for City elections differ from the filing dates for state or county elections as the City's Home Rule Charter (Section 5.5)

contains an additional filing deadline 42 days before an election. This date and all other filing dates and reporting periods for every election will be made available in a calendar to be supplied as part of the candidate packet by the City Clerk's Office and shall be posted on the City's web site at [www.centennialcolorado.com/cityservices/cityclerk/regular election](http://www.centennialcolorado.com/cityservices/cityclerk/regular%20election).

A filing deadline is the date upon which a filing must be *actually received* by the City Clerk's Office. All reports must be received by 5:00 p.m. of the filing deadline in order to be considered timely. The date of a postmark is not relevant in determining if a filing date has been met.

## Contributions and Donations to Committees

Contributions or donations from natural persons made by check come from the person who signed the check. For contributions or donations made by check, the date the committee deposits the check into their account is the date of receipt. .

Please see pages 26-27 of this Manual for information on contributions/donations from joint account holders.

Colorado law prohibits contributions made with the expectation that the committee will reimburse all or part of the contribution.

A "contribution" to an Independent Expenditure Committee is called a "donation" for campaign finance purposes. Depending on the contribution amount, Colorado law requires committees to report certain additional information as required:

- Committees must disclose contributions of less than \$20 on their report although itemization is not required.
- Committees must report and itemize contributions (and donations) of \$20 or more on disclosure reports.

Itemization means listing each contribution individually with the name and address of the contributor.

- Committees receiving contributions (and donations) of \$100 or more must include the occupation and employer of the contributor, including non-monetary contributions.

Contributors may make contributions using cash, check, money order, credit card, EFT, etc., but cash or coin contributions shall not exceed \$100.

Non-monetary (in-kind) contributions of goods, equipment, supplies or services constitute contributions, and require disclosure and itemization to the same extent as equivalent monetary contributions.

- Major Contribution Report

A Major Contribution Report is required for all contributions of \$1,000 or more received by a Candidate Committee, Political Committee, or Issue Committee (including recall committees), within 30 days before the City election. The Major Contribution Report must be filed with the City Clerk *in addition to* reporting such contributions on regular reports.

### Expenditures by Committees

An expenditure occurs when it is made, when it is obligated, or when a contract is established, whichever occurs first.

No committee (except an Independent Expenditure Committee) may spend more than \$100 in cash or coin, and committees must itemize expenditures of \$20 or more.

Third-party expenditures are reported as non-monetary contributions, as are some coordinated expenditures.

Committees should report reimbursements to committee staff and volunteers as expenditures. Reimbursements can take place at any time. Committees must list reimbursements to service providers initially paid for goods or services in addition to listing the person who is being reimbursed.

Independent Expenditure committees, and donors to such committees, are subject to additional disclosure requirements. Please see pages 23-24.

### Bank Accounts

Committees must deposit all contributions received in a financial institution in a separate account with a title that includes the committee name.

The financial institution with which you have your committee account may be any bank that you choose. Please consult your bank and I.R.S. regulations concerning account requirements, which may vary depending on the institution.

An Independent Expenditure Committee must have a dedicated bank account to be used solely for its donations and expenditures.

### Legal Provisions Related to Contributions and Expenditures:

Definition	Art. XXVII, Sec. 2
Disclosure requirements	1-45-108, C.R.S.; SOS Rule 10
Filing Dates	Home Rule Charter Section 5.5. See also official election calendar.
Contribution Amount Thresholds Affecting Reporting Requirements	Art. XXVIII, Sec. 3; 1-45-103.7, C.R.S.
Bank Accounts	Art. XXVIII, Sec. 3(9) and 1-45-107.5(7), C.R.S.





### **PART THREE: INDEPENDENT EXPENDITURES, ELECTIONEERING, AND FUNDRAISING**

#### **INDEPENDENT EXPENDITURES AND INDEPENDENT EXPENDITURE COMMITTEES**

Colorado law defines independent expenditures as expenditures made by individuals, businesses, and other entities—without the support of or coordination with a candidate, candidate committee, or candidate's agent—to support or oppose candidates running for office.

Laws governing independent expenditures apply only to expenditures made to support or oppose a candidate or candidates. They do not apply to expenditures made to support or oppose ballot measures. Expenditures made by a Candidate Committee in support of the candidacy, or those controlled by or coordinated with a candidate or their agent, do not constitute independent expenditures.

An Independent Expenditure Committee must register with the City Clerk within two business days of the time when any person, group, business, or other entity makes independent expenditures totaling more than \$1,000, or accepts donations for independent expenditures in excess of \$1,000. The committee must establish a separate bank account to be used exclusively for independent expenditures.

Independent Expenditure Committees may accept unlimited donations but may not make contributions to candidate committees or coordinate expenditures with candidates. Committees organized to make contributions to candidates are political committees. See pages 14-15.

Independent Expenditure Committees report on the schedule outlined for Political Committees. Independent Expenditure Committees must itemize all expenditures of

more than \$20 and all donations of more than \$250. Independent Expenditure Committees must also disclose occupation and employer information for donors giving \$250 or more.

Independent Expenditure Committees must file a separate 48 Hour Notice of Independent Expenditure in addition to, not in lieu of, the regular disclosure report within 48 hours of obligating funds for expenditures of more than \$1000 made within thirty days before a City election

In addition to other reporting requirements, independent expenditures of more than \$1,000 must contain a disclaimer identifying the person making the expenditure.

Failure to register an Independent Expenditure Committee or to file independent expenditure reports on or before the required due date will result in a penalty of \$25 per day.

#### Independent Expenditure Donor Reports

Persons giving \$1,000 or more in a calendar year to Independent Expenditure Committees for use as an independent expenditure must file Independent Expenditure Donor Reports with the City Clerk for every reporting period in which they make such donations.

#### "Paid for by" Statements

Colorado campaign finance law only requires "Paid for by" statements for communications that meet the definition of an independent expenditure or are made by issue committees. Independent expenditures must prominently feature on the communication the name of the person making the independent expenditure together with a statement that the communication or advertisement is not authorized by, coordinated with, or controlled by a candidate.

The Federal Communications Commission (F.C.C.) regulates political advertising for television and radio and may require a "Paid for by" statement. In some instances a newspaper or other publication may require, at their own discretion, the inclusion of a "Paid for by" statement as a condition of publishing the communication.

The F.C.C. regulates pre-recorded telephone calls, or robocalls, that involve candidates and issues. Such calls must state at the beginning of the message the identity on whose behalf the call is made and regulations prohibit such calls from being made to certain numbers, including emergency numbers, guest/patient rooms at a hospital, etc.

For more information, visit the F.C.C. website at [www.fcc.gov](http://www.fcc.gov).

#### Relevant Legal Provisions Related to Independent Expenditures:

Definition	Art. XXVIII, Sec. 2(9); 1-45-103 (11), C.R.S.
Registration and Reporting	Art. XXVIII, Sec. 5; 1-45-107.5, C.R.S.;
Donor Reports	1-45-107.5(9), C.R.S.

## **ELECTIONEERING**

### Electioneering communication

- (1) Is any communication broadcasted by television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to personal residences or otherwise distributed that:
  - (I) Unambiguously refers to any candidate; and
  - (II) Is broadcasted, printed, mailed, delivered, or distributed within sixty days before a general election; and

- (III) Is broadcasted to, printed in a newspaper distributed to, mailed to, delivered by hand to, or otherwise distributed to an audience that includes members of the electorate for such public office; and

- (2) Is the functional equivalent of express advocacy. A communication is not the functional equivalent of express advocacy if it:

- (I) Does not mention an election, candidacy, political party, opposing candidate, or voting by the general public,
- (II) Does not take a position on any candidate or officeholder's character, qualifications, or fitness for office, and
- (III) Merely urges a candidate to take a position with respect to an issue or urges the public to adopt a position and contact a candidate with respect to an issue.

Communications are considered electioneering if they are subject to no reasonable interpretation other than as an appeal to vote for or against a specific candidate.

Any person, including a candidate and/or candidate committee, spending \$1,000 or more per calendar year for an electioneering communication distributed within 60 days of the general election is required to report these expenditures to the City Clerk.

Electioneering reports are due at the same time as committee reports for contributions and expenditures. Filing dates for City elections differ from the filing dates for state or county elections as the City's Home Rule Charter (Section 5.5) contains an additional filing deadline 42 days before an election. This date and all other filing dates and reporting periods for every election will be

made available in a calendar to be supplied as part of the candidate packet by the City Clerk's Office and shall be posted on the City's web site at [www.centennialcolorado.com/cityservices/cityclerk/regular election](http://www.centennialcolorado.com/cityservices/cityclerk/regular%20election).

A filing deadline is the date upon which a filing must be *actually received* by the City Clerk's Office. All reports must be received by 5:00 p.m. of the filing deadline in order to be considered timely. The date of a postmark is not relevant in determining if a filing date has been met.

Reports must include all expenditures made on electioneering communications and the name and address of contributors giving more than \$250 per year for electioneering.

Electioneering reports must include occupation and employer of "natural persons" contributing more than \$250 per year.

Please note that many electioneering communications may also meet the definition of an independent expenditure, and therefore may be subject to additional legal requirements pertaining to independent expenditures.

Relevant Legal Provisions Related to Electioneering Communications:

Definition	Art. XXVIII, Sec. 2(7); SOS Rule 1.7 and 11
Reporting	Art. XXVIII, Sec. 6; 1-45-108, C.R.S.; SOS Rule 11.6
Sanctions	Art. XXVIII, Sec. 10 Section 2-6-330, 2-6-340 and 2-6-350 of the Municipal Code

## FUNDRAISING

*Note:* The information contained in this section provides only examples of some types of activity related to fundraising. If you have further questions about fundraising activities, please contact an attorney for legal advice.

### Fish Bowls and Pass the Hat Events

Traditional fish bowls and pass-the-hat events are permissible provided the committee lists all contributions received of \$20 or more during a reporting period individually on the contribution and expenditure report, including names and addresses of the contributors and employer and occupation for contributions totaling \$100 or more. If an individual contributor gives more than \$20 during a reporting period, the contributor must be listed individually on the report, regardless of the amount of each contribution. It can be helpful to provide envelopes printed with spaces to enter this information at your fundraising event.

Anonymous contributions are not permitted under any circumstances.

If you are required to provide the occupation and employer information for a contribution and fail to do so within 30 days, the contribution must be returned on the 31<sup>st</sup> day or fines may result.

### Meet and Greet Events

The law treats these events the same whether held in a rented space or someone's private home. Anything of value given to a committee must be reported, even if it is food brought for attendees to eat while they mingle. The committee should report the food as a contribution at the fair market value.

### Cost of Admission to Fundraising Events

Any amount paid for a ticket to a fundraising event in excess of the value of the meal (which is typically stated) constitutes a contribution to the organization benefitting from the event. For example, if a ticket to an event is \$100 and the cost of the meal is stated to be \$25, the ticket purchaser makes a \$75 contribution to the entity hosting the event.

### Silent Auctions

Items donated for silent auctions are considered, and reported as, non-monetary (in-kind) contributions. The fair market value of goods and services donated must be disclosed and itemized to the same extent as equivalent monetary contributions.

When a silent auction item is purchased, the full purchase price is considered a contribution from the purchaser and is reported as a monetary contribution.

### Non-monetary (in-kind) Contributions of Goods or Services

The use of a space (room, building, etc.), telephones, office equipment, printed material, or any other good or service by a committee is considered to be a contribution to the committee from the person who owns the space, office equipment, business providing the service, etc. Such a donation is subject to contribution prohibitions and must be disclosed and itemized to the same extent as equivalent monetary contributions. For example, the law typically prohibits the donation of the use of a ballroom at a corporate-owned hotel (whether donated outright, or given for use at a reduced rate) as a corporate contribution with the possible exception if, and only if, the hotel provides free use to other entities in the usual course of its business.

### Contributions from a Couple or Joint Account Holders

A contribution cannot come from two people. Therefore, couples and joint account holders should each write their own separate checks, and note in the “memo” space which person the contribution is from. If no notation is made, the recipient committee shall attribute the contribution to the person signing the check. A couple cannot write one check for an amount in excess of a threshold that affects the contribution reporting detail required with the intent that it be considered to be from two persons. All such contributions that meet a threshold amount requiring certain disclosure detail must comply with applicable disclosure requirements.

#### Online Contributions: PayPal and other Payment Intermediary Services

PayPal or other payment intermediary services may be used to solicit campaign contributions. The amount the contributor agrees to contribute is the contribution amount. The committee should report any fees charged by the service provider for the transaction as expenditures.

#### Candidate Committees Sharing Expenses

Candidate Committees may share expenses for the cost of brochures, offices, office equipment, etc. so long as each committee pays for its proportionate cost of the expense. If one committee pays for the entire cost initially and the other committee reimburses the paying committee within 30 days, then the purchase and reimbursement do not constitute a contribution by one candidate committee to the other.

## **PART FOUR: LATE FILINGS**

### **LATE FILING PENALTIES**

The City Clerk is required to impose penalties upon candidates or committees for failure to file disclosure reports or for disclosure reports filed past the due date. If the City Clerk knows that a filing was due because the person has previously filed a registration or report, the City Clerk will notify the late filer within 4 business days from the date the filing was due. In issuing such notice, the City Clerk will use the e-mail address, phone number or mailing address on file, if any.

A penalty of \$25 per day, including weekends and holidays, will be imposed on a candidate or committee for every day that a report remains outstanding beyond the due date. These \$25/day penalties shall accrue only up to 100 calendar days, or \$2500 for any individual late filing.

### **WAIVERS AND WAIVER REQUESTS**

The City Clerk has the discretion to grant penalty waivers for municipal candidates and committees for failure to timely file upon a showing of good cause. Waivers require submission of a written request, addressed to the City Clerk, explaining why a waiver or reduction in the penalty should be granted.

The City Clerk's office must receive the request **no later than 5 days after the date the notice of the imposed penalty was delivered.** Waiver requests may be submitted to the City Clerk, 13133 E. Arapahoe Road, Centennial, CO 80112.

**Waiver requests must state the reason for the delinquency.** The request should provide an explanation that includes all relevant factors relating to the delinquency and any mitigating circumstances, such as measures taken to avoid future delinquencies. Before a request will be

considered, the City Clerk's office must have received a written request containing the information required by this paragraph.

The City Clerk will review the request and make a determination in accordance with the guidelines on page 32. The City Clerk may consider any additional factors that establish good cause or may otherwise be relevant to the request for waiver or reduction of campaign finance penalties. In considering a request, the City Clerk may request additional information, including but not limited to financial or other records maintained by the filer. For waiver requests that apply to more than one penalty, the guidelines will be applied separately to each penalty in chronological order using the single request as the basis for each waiver requested.

## **PART FIVE: THIRD PARTY COMPLAINTS OF VIOLATIONS**

### **COMPLAINTS**

Any person who believes that there has been a violation of campaign finance laws and regulations may file a complaint with the City Clerk's Office within 30 days of the alleged violation or of the filing which gives rise to the alleged violation. The City Clerk shall provide the complaint cover sheet form which must be included. If an incomplete complaint is received, the date on which the originally filed complaint was received is considered the filed date if a complete copy is received within three (3) business days of notification from the City Clerk that the complaint was incomplete.

#### **COMPLAINTS MUST INCLUDE:**

- ❖ The name, address, e-mail address, telephone number and signature of the complainant (if represented by counsel, also counsel's name, address, e-mail address, telephone number and signature);
- ❖ The name and, if known, the telephone number and address of each person alleged to have committed a violation; and
- ❖ The particulars of the violation; and
- ❖ Optionally, documentation or other evidence supporting the allegation.

The City Clerk's office will ensure the complaint is submitted with all required information and then will have a period of 5 business days to contact the person or committee alleged to have violated the campaign finance laws to attempt to gain compliance. If the person or committee alleged to have violated such provisions comes into compliance during such five day

period, the complaint will be dismissed regardless of the fact that the compliance is untimely as otherwise required.

If the City Clerk cannot gain compliance, the City Clerk shall notify the City Manager of the complaint, and the City Manager, in consultation with the City Clerk and the City Attorney, shall within 3 business days refer the complaint to an independent hearing officer to hear and determine such complaint.

An informal hearing shall be scheduled to be held within 15 calendar days of referral of the complaint to the hearing officer. Within 2 business days of the date of referral of the complete complaint to the hearing officer, a notice of the hearing and any applicable rules governing the hearing shall be sent to the complainant and to the subject of the complaint, who shall also receive a copy of the entire complaint.

If the subject of the complaint submits a written request showing good cause therefore, the hearing officer may grant up to 30 additional calendar days to hold the hearing.

Complainants are expected to gather evidence related to the complaint and present that evidence at the hearing as if they were prosecuting a case. The City Attorney's Office cannot offer legal advice or interpret the law, and will only advise with regard to the procedures for filing a complaint. At the request of either party, the hearing officer may issue an administrative subpoena requiring the attendance of a witness or party at the hearing. Failure to comply with any such subpoena shall be a violation of the Municipal Code.



### Legal Provisions for Complaints:

Complaint Procedure and Sanctions	Art. XXVIII, Sec. 9(2) and 10; Sections 2-6-330, 2-6-340 and 2-6-350 of the Municipal Code
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### Legal Provisions for Penalties and Sanctions:

Sanctions	Art. XXVII, Sec. 10 Section 2-6-330, 2-6-340 and 2-6-350 of the Municipal Code
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## **PENALTIES**

Following a hearing, if the hearing officer determines that a violation has occurred, the hearing officer may order, without limitation, sanctions as follows:

- (1) Impose a civil penalty of at least double and up to five times the amount contributed, received or spent in violation of any contribution prohibition or limitation or in violation of a contribution reporting requirement.
- (2) A civil penalty of \$25 per day for each day that a statement or other information required to be filed is not filed by the close of business on the day due.
- (3) Order disclosure of the source and amount of any undisclosed contributions or expenditures.
- (4) Order the return to the donor of any contribution made which was the subject of the violation.

## **ATTORNEYS FEES RECOVERY FOR GROUNDLESS COMPLAINTS**

If a complaint is filed that lacks substantial justification, or is substantially frivolous, substantially groundless or substantially vexatious, the subject of the complaint may be entitled to reimbursement of legal costs spent to defend against such allegation. The hearing officer would determine whether the complaint lacked substantial justification, was brought for delay or harassment, or involved abuse of the process.

## GUIDELINES FOR WAIVER REQUESTS

GUIDELINES FOR CONSIDERING WAIVER REQUESTS Based on SS Guidelines as Reduced to Reflect Reduced City Imposed Penalties		
Scenario – applied in numerical order (i.e., if #1 doesn't apply, move to #2)		Result
#1	A waiver is requested and establishes good cause that made timely filing impracticable (For example, -was in the hospital, got in a car accident, was stranded by a blizzard, etc.). The event or events that made timely filing impracticable must occur within a reasonable time of the date on which the report was filed.	Waive penalty in full. A waiver will be granted without consideration of previous delinquencies.
#2	A waiver is requested but does not present circumstances that made timely filing impracticable (For example, forgot, was out of town, electronic calendar crashed), and:	This scenario #2 applies only to penalties of \$100 or more.
	(a) Filer had contributions and/or expenditures during the reporting period.	First delinquency in 24 months: The penalty will be reduced to \$25.  Second delinquency in 24 months: The penalty will be reduced by 50%.  Third (or subsequent) delinquency in 24 months: A reduction in penalty will not be granted.  Penalties imposed under this section are capped at the higher of the contributions or expenditures made during the reporting period. If a delinquency is found to be willful, the penalty cap may be increased to two to five times the higher of the contributions or expenditures made during the reporting period.  For purposes of this analysis, previous delinquencies exclude those for which a waiver under scenario #1 was granted.
	(b) Filer has no activity (contributions OR expenditures) during the reporting period and the committee balance is zero.	The penalty will be reduced to \$25.
	(c) Filer has a fund balance greater than zero and filer has no activity (contributions OR expenditures) during the reporting period.	First delinquency in 24 months: The penalty will be reduced to \$25.  Second delinquency in 24 months: The penalty will be reduced by 50%, subject to a cap of 10% of the fund balance (but not less than \$50)  Third (or subsequent) delinquency in 24 months: The penalty is capped at 10% of the fund balance, and a minimum penalty of \$50 will be imposed.  If a delinquency is found to be willful, the penalty cap may be increased to 20% to 50% of the fund balance.  For purposes of this analysis, previous delinquencies exclude those for which a waiver under scenario #1 was granted.
	(d) Filer seeks to terminate active status, has a fund balance of \$1,000 or less, and has no activity (contributions OR expenditures) during the reporting period(s) in question.	Penalties are subject to a cap equal to the total amount of the filer's fund balance as of the date on which the delinquent report was filed, if the committee is promptly terminated.
#3	A waiver is requested, but submitted more than 5 days after the date of penalty imposition. For purposes of this analysis, a filer has 5 days from the date on which the final notice of penalty imposition is issued following the filing of the delinquent report. Until an outstanding report is filed, penalties shall continue to accrue at a rate of \$25 per day and no request for waiver will be	A request will not be considered unless good cause has been shown for failure to meet the 5-day waiver filing requirement.

	considered.	
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## **GLOSSARY OF TERMS AND ACRONYMS**

### **Amendment 27**

Refers to what is now Article XXVIII of the Colorado Constitution, a voter-approved constitutional amendment providing campaign finance laws for the state of Colorado.

### **Article XXVIII**

A voter-approved amendment to the Colorado constitution providing campaign finance laws for the state of Colorado.

### **Candidate Affidavit**

Notarized form filed with the City Clerk to certify one's intent to run for public office.

### **Committee**

A person or group of persons that raises and spends money for the purpose of supporting or opposing candidates running for office, or supporting or opposing ballot measures.

### **Contribution**

A contribution is money given to, or received by, a campaign entity such as a candidate or a committee. Non-monetary contributions, such as in-kind donations of goods or services, are also considered contributions.

### **CPF -- Campaign and Political Finance**

Includes all the laws pertaining to and methods of financing political campaigns and related activities.

### **C.R.S. -- Colorado Revised Statutes**

The laws enacted by the Colorado General Assembly.

### **Electioneering**

Any communication broadcast in some form within 60 days of an election, to members of the electorate urging a vote for or against a candidate for public office.

### **Expenditure**

Money spent by a candidate, committee, other political entity, or individual in the case of Independent Expenditures.

### **FCPA -- Fair Campaign Practices Act**

Title 1, Article 45 of the Colorado Revised Statutes.

### **Fair Market Value**

The normal or average price that a good or service would ordinarily command in the marketplace.

### **FCC -- Federal Communications Commission**

Federal agency responsible for oversight of broadcast communications, including television, internet, and radio.

### **Foreign Citizen**

Any natural person who is not a citizen of the United States.

**Independent Expenditure**

A campaign finance expenditure that is not controlled or coordinated by the candidate that it references.

**Independent Expenditure Committee**

Person, business, group, or other entity that spends more than \$1,000 on independent expenditures.

**Issue Committee**

A person or group of persons that raises and spends money in excess of \$200, or prints 200 or more petition sections, to support or oppose ballot measures.

**Major Contribution Report**

Separate report that must be filed by the recipient of any contribution of \$1,000 or more, naming the contributor and his or her address, occupation, and employer.

**P.C. -- Political Committee**

A person or group of people that raises and spends money (more than \$200) to support or oppose the nomination or election of one or more candidates.

**Political Party**

A group of registered electors that nominates candidates for the general election ballot, whether by petition or by assembly.

**Recall Committee**

A recall committee is an issue committee established for the purpose of recalling an elected official.

**Registered Agent**

The agent authorized to act on behalf of a committee. Only the agent (and, in the cases of Candidate Committees, the candidate) may file committee reports and engage in other activities related to the control of a committee. The agent is also the person responsible for penalties and responding to complaints lodged against the committee.

**Report of Contributions and Expenditures**

Report outlining all of the contributions received, and expenditures made by, a candidate, committee, or other entity governed by campaign and political finance laws. Required by Colorado law. Independent expenditure committees file a similar report called a report of donations and expenditures.

**Rules -- Rules Concerning Campaign and Political Finance**

These are legally-binding regulations promulgated by the Colorado Secretary of State that govern campaign and political finance activities in Colorado.

**SOS -- Secretary of State****SDC -- Small Donor Committee**

Political committee that accepts contributions of \$50 or less from natural persons only.

**TABOR- Taxpayer's Bill of Rights**

Article X, Section 20 of the Colorado Constitution